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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,174	04/30/2001	Ian Adam	3997P009	4184

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EXAMINER

BOAKYE, ALEXANDER O

ART UNIT	PAPER NUMBER
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2667

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/846,174

Applicant(s)

ADAM ET AL.

Examiner

ALEXANDER BOAKYE

Art Unit

2667

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6,7,8,14,16 is/are rejected.
- 7) ☒ Claim(s) 3-5,9-13,15 and 17-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, 14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Buhrke et al. (US Patent # 5,280,470).

Regarding claims 1, 2 and 6, Buhrke discloses a method of congestion control in a communication network, comprising rate limiting packet transmissions over selected communication links within the network at control nodes thereof (column 6, lines 28-48); and modulating the rate limiting according to buffer occupancies at the control nodes (column 4, lines 43-50 ; the leaky bucket arrangement envisioned by Buhrke reads on the claimed buffer occupancy; modulating is achieved by varying packet delay time).

Regarding claims 14 and 16, Buhrke teaches a communication network (Fig. 1) comprising a number of nodes interconnected with one another through one or more communication links, a first one of the nodes being configured to control packet loss within the network by rate limiting packet transmissions over selected ones of the communication links (column 3, lines 63-column 4, lines 1-8; column 6, lines 28-48), such rate limiting being modulated according to buffer occupancy at the first one of the

nodes (column 4, lines 43-50; the leaky bucket arrangement envisioned by Buhrke reads on the claimed buffer occupancy).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buhrke et al. (US Patent # 5,280,470) in view of Van As et al. (US Patent # 5,768,258).

Regarding claim 7, Buhrke teaches congestion control in a communication network (column 2, lines 35-39). Buhrke differs from the claimed invention in that Buhrke does not disclose that the control nodes are located upstream of congested nodes. However, Van As, from the same field of endeavor, teaches that the control nodes are located upstream of congested nodes (column 2, lines 29-33). One of ordinary skill in the art would have been motivated to incorporate control nodes located upstream of congested nodes in order to selectively throttle traffic by reducing the average transmission rates of congested routes. Therefore, it would have been obvious to an artisan at the time of the invention to incorporate control nodes located upstream of congested nodes such as the one taught by Van As, into the communication network of Buhrke with the motivation being that it provides capability for the system to prevent packet loss.

Regarding claim 8, Buhrke teaches congestion control in a communication network (column 2, lines 35-39). Buhrke differs from the claimed invention in that Buhrke does not disclose that control nodes are located downstream of congested nodes within the network. However, Van As, from the same field of endeavor, teaches that the control nodes are located downstream of congested nodes within the network (column 2, lines 60-67). One of ordinary skill in the art would have been motivated to incorporate control nodes located downstream of congested nodes in order to selectively throttle traffic by reducing the average transmission rates of congested routes. Therefore, it would have been obvious to an artisan at the time of the invention to incorporate control nodes located downstream of congested nodes such as the one taught by Van As, into the communication network of Buhrke with the motivation being that it provides capability for the system to prevent packet overflow.

Allowable Subject Matter

3. Claims 3-5, 9-13, 15 and 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Boakye whose telephone number is (571) 272-3183. The examiner can normally be reached on M-F from 8:30am to 6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on (571) 272-3179. The fax number is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-4750.

Alexander Boakye

Patent Examiner

AB

2/19/05


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600 *2/22/05*